

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Christopher Landino	Team: Team # 6	CCRB Case #: 200411135	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 11/07/2004 1:40 AM	Location of Incident: § 87(2)(b)	Precinct: 101	18 Mo. SOL 5/7/2006	EO SOL 5/7/2006	
Date/Time CV Reported Tue, 11/09/2004 11:43 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 11/09/2004 11:43 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Wendell Williams	13461	886807	101 PCT
2. SGT Carlos Fabara	01279	922317	101 PCT
3. POM Thomas Mitchell	17903	920618	101 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Theodore Watson	02238	933526	101 PCT
2. POM Kevin Campbell	24299	923614	101 PCT
3. POF Veronica Schultz	16547	933339	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Thomas Mitchell	Force: PO Thomas Mitchell struck § 87(2)(b) with a vehicle.	§ 87(2)(b)
B.POM Wendell Williams	Force: PO Wendell Williams used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Wendell Williams	Discourtesy: PO Wendell Williams spoke rudely to § 87(2)(b) while driving to the 101st stationhouse.	§ 87(2)(b)
D.SGT Carlos Fabara	Discourtesy: Sgt. Carlos Fabara spoke rudely to § 87(2)(b) in the vicinity of § 87(2)(b) while driving to the 101st stationhouse, and at the 101st stationhouse.	§ 87(2)(b)
E.SGT Carlos Fabara	Abuse: Sgt. Carlos Fabara threatened § 87(2)(b) with the use of force in the vicinity of § 87(2)(b) and while driving to the 101st stationhouse.	§ 87(2)(b)
F.SGT Carlos Fabara	Force: Sgt. Carlos Fabara struck § 87(2)(b) with a flashlight while driving to the 101st stationhouse.	§ 87(2)(b)
G.SGT Carlos Fabara	Off. Language: Sgt. Carlos Fabara made remarks to § 87(2)(b) based upon race while driving to the 101st stationhouse.	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H.SGT Carlos Fabara	Force: Sgt. Carlos Fabara struck § 87(2)(b) with a nightstick outside of the 101st stationhouse.	
I.POM Thomas Mitchell	Abuse: PO Thomas Mitchell did not obtain medical treatment for § 87(2)(b) at the 101st stationhouse.	
J.POM Thomas Mitchell	Discourtesy: PO Thomas Mitchell spoke rudely to § 87(2)(b) at the 101st stationhouse.	

Synopsis

On November 7, 2005, at approximately 1:40 AM, § 87(2)(b) was riding his bicycle in Queens with his friend, § 87(2)(b) sitting on the handlebars. Sgt. Carlos Fabara and PO Thomas Mitchell began driving after the males in the vicinity of § 87(2)(b) and § 87(2)(b) prompting § 87(2)(b) to ride his bike on the sidewalk to get away from the officers. PO Mitchell then allegedly drove his vehicle into the back tire of § 87(2)(b)'s bicycle, sending both § 87(2)(b) and § 87(2)(b) from the bike and onto the sidewalk (allegation A). Both men then climbed over a nearby fence and ran away from one another. § 87(2)(b) alleged that he was eventually caught and thrown onto a police car by a black male officer, later identified as PO Wendell Williams (allegation B). Sgt. Fabara allegedly told § 87(2)(b) at this time, "I wish I would have caught you in those fucking backyards. I would have put two in you" (allegation D). § 87(2)(b) was transported to the 101st stationhouse by PO Williams and allegedly, Sgt. Fabara, who repeatedly cursed at him (allegation D), threatened him (allegation E), called him a "nigger" (allegation G), and forcefully jabbed his flashlight into § 87(2)(b)'s body (allegation F). Once at the stationhouse, Sgt. Fabara opened the rear door of the police car and allegedly struck § 87(2)(b)'s ribcage with his nightstick (allegation H), as well as cursed at him further (allegation D). § 87(2)(b) later threw up in his prison cell, at which time his arresting officer, PO Mitchell, told him to "mop up that fucking throw up" (allegation J), and then denied him medical treatment (allegation I). § 87(2)(b) was arrested for § 87(2)(a) 160.50 § 87(2)(b).

§ 87(2)(g)

Summary of Complaint

IAB Complaint Report 04-34066; CCRB Initial Complaint Report: § 87(2)(b)

§ 87(2)(b) § 87(2)(b)'s aunt, filed this complaint with the CCRB on November 9, 2004 (Enc. 6A-C) and separately, with IAB on November 11, 2005 (Enc. 5A-E); she was not present for this incident. § 87(2)(b) later alleged none of the allegations raised by § 87(2)(b) § 87(2)(g)

Results of Investigation

§ 87(2)(a) 160.50

§ 87(2)(a) 160.50

Victim CCRB Statement: § 87(2)(b)

Investigator Landino interviewed § 87(2)(b) a § 87(2)(b) African-American male, on January 20, 2005, at the CCRB (Enc. 8A-G). He insisted that he had not been intoxicated, or smoked marijuana before this incident.

On November 7th, 2004, at approximately 1:40 p.m., § 87(2)(b) was riding his bike near § 87(2)(b) and § 87(2)(b) with § 87(2)(b) riding on its handlebars. Their friend § 87(2)(b) rode on his own bike beside them. The males had stopped off at a friend's house by § 87(2)(b) to purchase two dime bags of marijuana; § 87(2)(b) put the bags inside of his jacket's left-breast pocket. As the men left they allegedly saw the two officers in question, later identified as Sgt. Carlos Fabara, the passenger, and PO Thomas Mitchell, the driver, watching them from their police car. The males continued riding their bikes to § 87(2)(b) where they asked a group of people where a party was being held. § 87(2)(b) and § 87(2)(b) then rode to § 87(2)(b) when the officers in question, from § 87(2)(b) began speeding towards them.

Because § 87(2)(b) had marijuana on his person, he and § 87(2)(b) rode away from the officers. § 87(2)(b) rode a block ahead of § 87(2)(b) and turned around to see the police car cut off § 87(2)(b) bike before quickly continuing after § 87(2)(b) § 87(2)(b) with § 87(2)(b) still on his handlebars, rode onto the sidewalk so the police car would not hit him. However, when the police car reached § 87(2)(b) the side of the vehicle's tire hit § 87(2)(b)'s back-wheel. § 87(2)(b) and § 87(2)(b) both jumped from the bike and ran towards a nearby fence, which they proceeded to climb over. Once over the fence, § 87(2)(b) took off his 'Raider's' jacket and dropped it because it had the marijuana still inside of it. Later in the interview, § 87(2)(b) said the jacket had been caught on a bush, so he dropped it. As the officers chased § 87(2)(b) on foot, § 87(2)(b) jumped two more fences and ran through two backyards, reaching the street again on § 87(2)(b) between § 87(2)(b) and § 87(2)(b). At this time a black male officer, later identified as PO Wendell Williams, caught up to § 87(2)(b) and threw him on to the top of a nearby police car, after which § 87(2)(b) fell to the grass. PO Mitchell and Sgt. Fabara ran to the two men from around the corner. While PO Williams was handcuffing § 87(2)(b) against the police car, Sgt. Fabara told § 87(2)(b) "I wish I would have caught you in those backyards, I would have put two in you." § 87(2)(b) later alleged that Sgt. Fabara had at this time stated, "I wish I would have caught you in those *fucking* backyards, I would have put two in you." Many other officers had by this time arrived on the scene. § 87(2)(b) insisted that he never resisted arrest.

§ 87(2)(b) was placed behind the driver's seat of PO William's police car. PO Williams drove while Sgt. Fabara rode in the passenger seat. While on the way to the 101st Precinct, Sgt. Fabara turned around towards § 87(2)(b) and said, "You think you're quick? You're lucky I couldn't hop over that fence behind you fast enough, because I would have killed your ass in that backyard." § 87(2)(b) then told Sgt. Fabara that he thought he was being "hostile about the whole situation," to which Sgt. Fabara replied, "y'all fucking think you're out playing? Y'all gonna play with a gun one day and one of y'all is gonna get killed. All your family is gonna be able to do is ask why, what happened?" § 87(2)(b) later articulated this same statement as, "we found the fucking gun. Y'all like fucking playing with guns, until one of y'all little motherfuckers get killed." The investigator later asked § 87(2)(b) directly about the racist remark alleged by § 87(2)(b) during her initial complaint: "you better be glad nigger we did not find you in a dark alley or we would have put two in your head." § 87(2)(b) initially denied hearing a racist remark, but then alleged that Sgt. Fabara had told him, "us niggers like playing with guns."

§ 87(2)(b) told Sgt. Fabara that he did not have a gun, but Sgt. Fabara insisted, "I saw it fall from your hoody." When § 87(2)(b) again denied this, Sgt. Fabara, still turned around towards § 87(2)(b) quickly and forcefully jabbed his flashlight into § 87(2)(b)'s left shoulder, left arm, and chest. § 87(2)(b) called Sgt. Fabara a "mother fucker" and a "pig," prompting PO Williams to tell § 87(2)(b) to "shut up and sit back." § 87(2)(b) later articulated this same statement as, "sit the fuck back."

Once at the stationhouse, Sgt. Fabara opened the passenger door for § 87(2)(b) and told him to exit. As § 87(2)(b) was still handcuffed, he attempted to slide off of the back seat, thus exiting the vehicle feet first. He was lying on his back on the backseat when Sgt. Fabara asked him, "you really think I'm playing with you?" Sgt. Fabara reached into the backseat with his nightstick, struck § 87(2)(b) in his left ribcage with it and pulled him out of the car. § 87(2)(b) was lying on the ground outside of the police car when Sgt.

Fabara yelled to him, “get the fuck up. You think I'm playing, I'm not fucking playing with you. This is not a fucking game! Get the fuck up!” Sgt. Fabara and PO Mitchell, who had drove himself to the stationhouse, then picked up § 87(2)(b) and walked him into the stationhouse.

While just outside of his cell, § 87(2)(b) told PO Mitchell, his arresting officer, that he could not breathe because he had just been struck with a nightstick; he then began to vomit. § 87(2)(b) thought PO Mitchell was “the only cool” officer, despite PO Mitchell allegedly telling § 87(2)(b) “I’m gonna make you mop up that fucking throw up.” About five minutes later, PO Mitchell returned to the cell area with a mop and bucket, and § 87(2)(b) mopped up the vomit. PO Mitchell later had a “silver Smith and Wesson” gun in a plastic bag. § 87(2)(b) denied knowing anything about the gun, and asked PO Mitchell for medical treatment; it was denied.

At approximately 3:30 a.m., PO Mitchell brought § 87(2)(b) upstairs, where they met up with Sgt. Fabara and another officer. § 87(2)(b) refused to talk and asked for his lawyer, to which Sgt. Fabara responded, “101 don’t deal with lawyers. Either you’re gonna deal with me, or your ass is going up for ten years for this gun.” § 87(2)(b) again denied knowledge of the gun in question and would not answer any of Sgt. Fabara’s questions. Sgt. Fabara asked him, “do you want to get the fuck out of here? Do you want to go home tonight?” § 87(2)(b) said yes, Sgt. Fabara responded, “then you’re gonna tell me who gave you that fucking gun.” When § 87(2)(b) again denied the gun, Sgt. Fabara told him “I’ll get the DA on the phone, and they’ll tell you you’ll go home tonight. And you’ll write what I fucking tell you to write on this paper, so you can get the fuck out of my hair.” § 87(2)(b) then spoke via telephone with a man who said he was from the “DA,” and told § 87(2)(b) to cooperate so he could go home. § 87(2)(b) was told to write a confession on a piece of paper, which stated something to the extent of, “I ran from him because I had a gun, and I threw the gun back towards him. And I kept running, and the reason why I had the gun was because I had a beef with some guy named § 87(2)(b) and § 87(2)(b).

Interview Photo: § 87(2)(b)

At the conclusion of his interview on January 20, 2005, the investigator took a photograph of a faint, thin mark on § 87(2)(b)’s left ribcage (Enc. 8E). Approximately 6 inches in length, § 87(2)(b) alleged that it was a scar caused from being struck with the nightstick on November 7, 2004. He mentioned no other injuries.

Witness CCRB Statement: § 87(2)(b)

Investigator Landino interviewed § 87(2)(b) a § 87(2)(b) African-American female, on January 20, 2005 (Enc. 9A-D). Though not present for the initial incident, § 87(2)(b) later appeared at the 101st stationhouse on November 7, 2004, at approximately 2:00 a.m.

As § 87(2)(b) was waiting in the front of the stationhouse to receive § 87(2)(b)’s belongings, she listened from about 25 feet away as one officer asked another, “whose gonna’ mop up in here?” The unidentified officer, standing in different room than § 87(2)(b) responded, “Well I’ll mop up in here, but that nigger’s gonna’ mop up the cell, because he did the bullshit. He vomited in his cell, he’s gonna mop up the cell.” § 87(2)(b) never saw this officer.

Upon direct questioning by the investigator, § 87(2)(b) denied that she had been threatened with arrest, as previously alleged by § 87(2)(b) “get out of here or we’ll arrest you.”

Witness CCRB Telephone Statement: § 87(2)(b)

The investigator spoke with § 87(2)(b) a § 87(2)(b) African-American male, on March 9, 2005 (Enc. 11).

On November 7, 2004, § 87(2)(b) was returning from work to his home at § 87(2)(b). An officer later identified as PO Veronica Schultz, stopped him and explained that he matched the descriptions of a black male that officers were searching for. PO Schultz handcuffed § 87(2)(b) and stood him beside one of four other police cars on the block. Suddenly another black male, identified as § 87(2)(b) hopped a fence beside § 87(2)(b) and ran across the street; a tall, perhaps Chinese male officer, later identified as Sgt. Carlos Fabara, chased after him. § 87(2)(b) reached the other side of the street before

appearing to slip on the grass and fall, at which time the officer in question caught up to him and handcuffed him. As § 87(2)(b) was handcuffed, about four other officers arrived. There was hardly any force used at this time because § 87(2)(b) seemed “winded” from the chase. § 87(2)(b) was walked across the street to two unknown police officers, and placed in a police car. Sgt. Fabara walked across the street to § 87(2)(b) and PO Schultz and said, “we got him.” At this time, § 87(2)(b) was apologized to and unhandcuffed, as was another black male, later identified as § 87(2)(b) who had been stopped across the street from him. § 87(2)(b) did not take issue with having been stopped.

Witness CCRB Telephone Statement: § 87(2)(b)

The investigator spoke with § 87(2)(b) of § 87(2)(b), via telephone, on March 5, 2005 (Enc. 10).

On November 7th, 2004, § 87(2)(b) awoke to see many officers running through her backyard, and eventually saw two white, male officers leading a calm, handcuffed black male to a police vehicle.

Attempts to contact: § 87(2)(b)

Two contact letters were sent to the address listed on § 87(2)(b)'s stop and frisk report (Enc. 38C; 38G). Searches for a relative phone number were performed on both Metrosearch and the Coles directory; all telephone numbers attempted were negative. Because § 87(2)(b) told the investigator on December 8, 2005 that § 87(2)(b) would probably not cooperate, § 87(2)(b) was asked to help in contacting his friend § 87(2)(b) but evidently made no such effort. As such, § 87(2)(b) was never spoken to.

Memobook Entries: PO Thomas Mitchell and Sgt. Carlos Fabara

In regards to this incident, PO Mitchell had the following memobook entry: “01:30 observed the defendant riding blue giant bicycle on the sidewalk. Upon trying to stop defendant, defendant did jump off bike with one other perp; other perp was on the handlebars. Defendant who was riding the bike did jump the fence at the corner of § 87(2)(b) and § 87(2)(b) the defendant did toss a silver revolver out of his right hand as hopping fence, the gun landed on the sidewalk; the perp apprehended at rear of § 87(2)(b) by the 101 sergeant; 01:43 one under; 02:35 § 87(2)(b) present in the 101 stationhouse; she's the mother of § 87(2)(b) returned one cell phone, 50 dollars USC, and one giant mountain bike.” § 87(2)(b) signed PO Mitchell's memobook. PO Mitchell's is cited as § 87(2)(b)'s arresting officer (Enc. 16A-C).

In regards to this incident, Sgt. Fabara noted a 10-13 at 1:30 a.m. at § 87(2)(b) and § 87(2)(b) (Enc. 14A-B). At 1:43 a.m. Sgt. Fabara cited one under arrest in regards to § 87(2)(a) 160.50 § 87(2)(b).

NYC Arrest Report; UF-61 Complaint Report; Command Log: PO Thomas Mitchell regarding § 87(2)(b) ***arrest number*** § 87(2)(b)

PO Thomas Mitchell documented his arrest of § 87(2)(b) into the 101st Precinct's command log at 1:50 a.m. on November 7, 2004 (Enc. 31). § 87(2)(b) was recorded as being in “normal” condition mentally and physically. § 87(2)(a) 160.50

§ 87(2)(a) 160.50

NYC Criminal Court Complaint: PO Thomas Mitchell

§ 87(2)(a) 160.50

Subject Officer CCRB Statement: PO Thomas Mitchell and Sgt. Carlos Fabara

Sgt. Carlos Fabara, a seven-year veteran of the NYPD, was interviewed at the CCRB on February 24, 2005 (Enc. 15A-C). PO Thomas Mitchell, a seven-year veteran of the NYPD, provided a consistent statement at the CCRB on February 28, 2004 (Enc. 20A-C).

On November 7, 2004, PO Thomas Mitchell was driving Sgt. Carlos Fabara in RMP 1671, heading eastbound on § 87(2)(b) when they saw § 87(2)(b) riding a bicycle on the sidewalk. PO Mitchell thought that § 87(2)(b) had been riding with another male sitting on his handlebars, but Sgt. Fabara thought he had been riding alone. Sgt. Fabara recalled that § 87(2)(b) was riding another bicycle close by with an unknown male on his handlebars. The officers briefly pulled up to § 87(2)(b)'s bicycle, but § 87(2)(b) quickly rode away with his right-hand in his pocket, prompting Sgt. Fabara to think, "at that point he might have a weapon." PO Mitchell stated that until then the officers had intended to issue the males summonses for riding bicycles on the sidewalk. PO Mitchell drove to the corner of § 87(2)(b) and § 87(2)(b) stopping his vehicle at an angle intended to cut off the bike en route had § 87(2)(b) not jumped off of it about 10 to 15 feet before reaching the intersection. As such, the police vehicle never made contact with the bike.

PO Mitchell recalled that both men jumped off the bike. Both officers acknowledged that § 87(2)(b) and another male then hopped over the sidewalk's adjoining fence. As § 87(2)(b) was hopping over the fence in question, he tossed a silver revolver, loaded with five rounds, from his right hand; it landed on the sidewalk. PO Mitchell retrieved the weapon and placed it into his jacket pocket. He then ran down § 87(2)(b) to gain access into the backyards that the two males were by then running through, while Sgt. Fabara jumped the fence in question and continued chasing the males through the backyards in question. Sgt. Fabara called for additional units and within 3 minutes, about 20 units from the 100th and 101st Precincts had arrived on the scene. PO Mitchell was not present when Sgt. Fabara and a few other officers, later identified as PO Kevin Campbell and PO Wendell Williams, finally caught § 87(2)(b) on § 87(2)(b).

Sgt. Fabara had chased § 87(2)(b) out of the yards and across the street where, he recalled, "he ran into arms of several officers" after falling on the ground in front of them. Sgt. Fabara stated that "everyone started grabbing his arms," which § 87(2)(b) had been holding beneath his body. Sgt. Fabara insisted that "not a lot of force at all" was used in apprehending § 87(2)(b) and the officers did not say anything to him at this time. Sgt. Fabara alleged that § 87(2)(b) was "belligerent" and "intoxicated," and was cursing at the officers. § 87(2)(b) stated that if he had not been drunk, he would not have been caught and would have made it back to the "projects." Sgt. Fabara did not recall who handcuffed § 87(2)(b) as there were a lot of officers present. PO Campbell later told PO Mitchell that he had handcuffed § 87(2)(b). Neither officer knew who transported § 87(2)(b) to the stationhouse but both denied doing so. As such, both also denied using a nightstick or any instrument against § 87(2)(b). Sgt. Fabara stated that another officer on the scene had stopped § 87(2)(b) and filled out a 'stop and frisk' report in regards. § 87(2)(b) was later processed for criminal possession of a loaded gun and resisting arrest in addition to riding his bike on the sidewalk.

Both officers denied that any officer cursed at § 87(2)(b) throughout the incident, or told him, "I wish I would have caught you in those fucking backyards, I would have put two in you." An officer never told § 87(2)(b) "us niggers like playing with guns" or "You're lucky I couldn't hop over those fences fast enough. I would have killed your ass in those backyards." Sgt. Fabara denied telling § 87(2)(b) "We found the fucking gun, y'all like playing with guns till one of y'all mother fuckers gets killed."

Neither officer saw § 87(2)(b) again until they arrived at the stationhouse; Sgt. Fabara never saw § 87(2)(b) outside of the stationhouse, and as such never hit § 87(2)(b) with his nightstick. Officers never cursed at § 87(2)(b) while at the stationhouse, and neither officer thought § 87(2)(b) had appeared ill while in front of the desk. Furthermore, § 87(2)(b) had never expressed that he had been injured, hit with a nightstick, or assaulted in the police car. § 87(2)(b) "never complained of his ribs at any point." PO Mitchell recalled that while in his cell, § 87(2)(b) was "screaming and yelling" comments like "this is bullshit, why are you arresting me? I didn't have no gun." PO Mitchell never heard an officer curse at § 87(2)(b) at this time. After § 87(2)(b) vomited in his cell, PO Mitchell asked § 87(2)(b) if he wanted EMS,

but § 87(2)(b) denied it and instead requested a drink of water. PO Mitchell asked § 87(2)(b) why he threw up, and § 87(2)(b) responded, “because I was drinking earlier.” PO Mitchell got a bucket with soapy water and asked § 87(2)(b) if he would clean it up; he complied. He never told § 87(2)(b) “I’m gonna make you mop up that fucking throw up,” or told another officer, “I’ll mop up in here, but that nigger’s gonna’ mop up in here, because he did the bullshit.” PO Mitchell later gave § 87(2)(b) s possessions to § 87(2)(b).

After § 87(2)(b) cleaned his cell, PO Mitchell and Sgt. Fabara debriefed him. At this point, § 87(2)(b) wrote and signed a confession of guilt, and thus stopped denying having had the gun. An officer never cursed at § 87(2)(b) during this interaction, and § 87(2)(b) never asked to speak with a lawyer. An officer never said to § 87(2)(b) “101 don’t deal with lawyers, either you’re gonna deal with me or your ass is going up for ten years for this gun.” Sgt. Fabara recalled that § 87(2)(b) had said his cousin had bought the gun in North Carolina. § 87(2)(b) said he “needed the defense” because someone had tried to shoot at him with a shotgun. When asked directly, Sgt. Fabara thought that there was a shooting that had taken place in the § 87(2)(b) involving a male named § 87(2)(b).

UF-250 Stop and Frisk Reports: PO Kevin Campbell and PO Veronica Schultz

On November 7, 2004, PO Campbell stopped § 87(2)(b) while PO Schultz stopped § 87(2)(b) in front of § 87(2)(b), for suspicion of a weapon (Enc. 21; 24). Both officers documented that the two black males were wearing black, and were in close proximity to a crime location. Both suspects were handcuffed and released within seven to ten minutes.

Memobook Entries: PO Kevin Campbell and PO Veronica Schultz

In regards to this incident, PO Campbell had similar memobook entries regarding this incident: The officers stopped § 87(2)(b) and § 87(2)(b) at § 87(2)(b) and § 87(2)(b) following Sgt. Fabara’s report that a search was being conducted in the area for a black male with a weapon (Enc. 22A-C; 25A-B).

Witness Officer CCRB Statement: PO Kevin Campbell and PO Veronica Schultz

PO Kevin Campbell, a six-year veteran of the NYPD, was interviewed at the CCRB on March 14, 2005 (Enc. 23A-C). His partner on November 7, 2004, PO Veronica Schultz, a two-year veteran of the NYPD, provided a consistent statement at the CCRB on March 28th, 2005 (Enc. 26A-B).

On November 7, 2004, PO Campbell and PO Schultz received a radio-run for additional units in the vicinity of § 87(2)(b) and § 87(2)(b). Once on the scene, Sgt. Fabara informed the officers that they were in search of a male black wearing all black. The officers exited their vehicle on § 87(2)(b) and stopped two black males who matched the given description. PO Schultz stopped § 87(2)(b) in front of his own house on § 87(2)(b) he had been returning home from work and was described as cooperative. PO Campbell stopped § 87(2)(b). Even at the time of his interview, PO Campbell did not know that § 87(2)(b) had been with § 87(2)(b) prior to having been stopped. Both individuals were calm and denied their involvement in the incident in question. As PO Schultz was filling out the 250 reports, PO Campbell stood facing § 87(2)(b) when he suddenly heard a “loud thud” noise from behind him. PO Campbell turned around to see § 87(2)(b) on the ground about “half-a-house away” and looking “wide-eyed.” PO Campbell assumed the “thud” noise was the sound of § 87(2)(b) landing on the ground after having just come through a yard. § 87(2)(b) stood up from the ground and began running across the nearby field.

As PO Schultz spoke with § 87(2)(b) he pointed behind her and yelled, “there he goes right there.” PO Schultz turned around to see § 87(2)(b) running across the street as PO Campbell and another officer chased him. PO Campbell described this other officer as “a black officer that works at the Satellite,” later identified on the 101st roll call as PO Wendell Williams.

PO Campbell chased § 87(2)(b) for about 50 yards until § 87(2)(b) fell down. PO Campbell drew his weapon from about 20 feet away and yelled for § 87(2)(b) to “show me his hands.” § 87(2)(b) remained on the ground, about 50 yards from the street, and put his hands in the air. PO Campbell and PO Wendell Williams then handcuffed § 87(2)(b). Sgt. Fabara was soon present with the officers as well. PO

Campbell recalled that § 87(2)(b) “probably got up on his own,” at which time all three officers walked him out of the field and to the police vehicles, where they saw PO Mitchell. PO Campbell stated that § 87(2)(b) did not resist arrest other than running from police officers. There was never any conversation had between the officers and § 87(2)(b).

PO Campbell and PO Schultz denied that § 87(2)(b) was thrown onto a car during his apprehension, as all the cars were in the street, and they apprehended him in the field. Neither officer heard an officer curse at § 87(2)(b) throughout this incident. PO Campbell never said or heard an officer say to § 87(2)(b) “I wish I would have caught you in those fucking backyards, I would have put two in you.” An officer never said to § 87(2)(b) “you’re lucky I couldn’t hop over those fences, I would have killed your ass in those backyards.” An officer never said to § 87(2)(b) “we found the fucking gun, y’all like fucking playing with guns until one of you mother fuckers gets killed.” PO Campbell never heard § 87(2)(b) referred to as a “nigger.” Neither officer knew who transported § 87(2)(b) to the stationhouse.

Witness Officer Statement: PO Theodore Watson

PO Theodore Watson was interviewed at the CCRB on February 23, 2005 (Enc. 13A-B). Despite that during his interview, PO Mitchell’s assertion that he had been present on the scene, PO Watson denied his involvement in this incident. Furthermore, his memobook entry has him reporting to another location at the time of this incident (Enc. 12A-C).

Verification of PO Wendell William’s resignation

PO Wendell Williams resigned from the New York City Police Department on May 21, 2005 (Enc. 3). He was on terminal leave from January 20, 2005 until the date of his resignation (Enc. 37J).

NYPD Documents

Sprint Print-Out: § 87(2)(b) and § 87(2)(b) 911 Radio Communications

Sprint § 87(2)(b) details that at 1:32 a.m. Sgt. Fabara reported a ‘10-13 U2: priority category 1,’ requesting additional officers. He was going into the backyards of residences on § 87(2)(b) in pursuit of a black male wearing all black (Enc. 29A). Sprint § 87(2)(b) cites a 911 call from § 87(2)(b) of § 87(2)(b) at 1:33 a.m. reporting a black male in the backyard of her residence (Enc. 34D). Aviation was requested at 1:34 a.m. in regards to a male with a firearm. At 1:41 a.m. a black male was reported as being in the backyard of § 87(2)(b). § 87(2)(b) was apprehended at 1:43 a.m. and the firearm was reported as having been recovered at 1:44 p.m.

The 911 radio-run for this incident details that RMP 1967 is the vehicle that transported § 87(2)(b) to the 101 stationhouse.

Vehicle Utilization Sheet: 101st Stationhouse from November 7, 2005

There was no vehicle utilization sheet prepared by the 101st Precinct on November 7, 2005 (Enc. 30).

Roll Call: 101 Precinct – Tour 1 from 1 from November 7, 2004

The 101st Precinct’s roll call from tour 1 of November 7, 2004 cites Sgt. Fabara as having been assigned as patrol supervisor and working with PO Mitchell in RMP 1691. PO Campbell was working with PO Schultz in RMP 1952 (Enc. 27A). PO Wendell Williams, a black male officer, was working ‘Satellite Security,’ and not assigned to a motor vehicle (Enc. 27B).

§ 87(2)(g), [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Subject Officer CCRB History

Neither PO Fabara or PO Mitchell have had previous CCRB allegations substantiated against them (Enc. 2A-B).

Complainant CCRB History

None of the civilians involved in this case has a previous CCRB history (Enc. 4)

Conclusions and Recommendations

Officer Identification

§ 87(2)(b) alleged that two officers in a marked vehicle initially pursued him. PO Thomas Mitchell, this vehicle's driver, eventually arrested and processed § 87(2)(b) while it's passenger, first identified on the UF-61 Complaint Report as Sgt. Carlos Fabara, was alleged to have chased § 87(2)(b) through the backyards before riding with § 87(2)(b) to the stationhouse in another vehicle. The driver of this second vehicle was described as a black officer who had previously helped to catch § 87(2)(b). PO Kevin Campbell, identified from § 87(2)(b)'s 250 'stop and frisk' report, acknowledged that the black male officer in question was working 'Satellite Security' on the night in question. As shown above, PO Wendell Williams, a black male, was found to be the assigned officer on the roll call. The roll call also identified PO Veronica Schultz as having worked with PO Campbell; she detailed the 250 'stop and frisk' report for § 87(2)(b).

Undisputed Facts

On November 7, 2005, PO Thomas Mitchell and Sgt. Carlos Fabara, from their vehicle, chased § 87(2)(b) and § 87(2)(b) in the vicinity of § 87(2)(b) and § 87(2)(b) where § 87(2)(b) left his bicycle to hop a nearby fence. Sgt. Fabara pursued § 87(2)(b) through residential backyards, while PO Mitchell ran around the block. During the pursuit, additional officers arrived on the scene to aid in the search. § 87(2)(b) was finally apprehended by Sgt. Fabara and other officers on § 87(2)(b). A black male officer helped Sgt. Fabara catch § 87(2)(b) and later drove § 87(2)(b) to the stationhouse, where § 87(2)(b) eventually vomited outside of his cell.

Credibility Analysis

§ 87(2)(g) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(g)

Pleading Allegations

§ 87(2)(b) alleged to have been sitting in the 101st Precinct stationhouse when she heard an unknown officer comment to another, “Well I’ll mop up in here, but that nigger’s gonna’ mop up the cell, because he did the bullshit.” In *Police Department v. Cunningham* [OATH Index No. 1892/99 (July 12, 1999)] the ALJ dismissed an officer’s “unfortunate and inappropriate” comment because it was not directed at the complainant (Enc. 1D). § 87(2)(g)

Allegation A: PO Thomas Mitchell struck § 87(2)(b) with a vehicle.

§ 87(2)(g)

Allegation B: PO Wendell Williams used physical force against § 87(2)(b)

Allegation C: PO Wendell Williams spoke rudely to § 87(2)(b) while driving to the 101st stationhouse.

§ 87(2)(g)

Allegation D: Sgt. Carlos Fabara spoke rudely to § 87(2)(b) in the vicinity of § 87(2)(b) on the way to the 101st stationhouse, and at the 101st stationhouse.

Allegation E: Sgt. Carlos Fabara threatened § 87(2)(b) with the use of force in the vicinity of § 87(2)(b) and again on the way to the 101st stationhouse.

§ 87(2)(b) alleged that upon his capture Sgt. Fabara told him, “I wish I would have caught you in those backyards, I would have put two in you.” He later added that Sgt. Fabara had said “*fucking* backyards” during this remark. He then claimed that on the way to the 101st stationhouse, Sgt. Fabara threatened him “I would have killed your ass in those backyards,” and “we found the fucking gun, y’all like playing with guns until one of y’all little mother fuckers gets killed.” Later at the 101st Precinct, Sgt. Fabara continued cursing at § 87(2)(b) while hitting him with his nightstick, and later while he allegedly coerced him into writing a signed confession for the gun in question.

§ 87(2)(g)

Allegation F: Sgt. Carlos Fabara struck § 87(2)(b) with a flashlight while driving to the 101st stationhouse.

Allegation G: Sgt. Carlos Fabara made remarks to § 87(2)(b) based upon race while driving to the 101st stationhouse.

Allegation H: Sgt. Carlos Fabara struck § 87(2)(b) with a nightstick outside of the 101st stationhouse.

§ 87(2)(g)

§ 87(2)(b) alleged that Sgt. Fabara called him a “nigger” while sitting beside his fellow officer, an African-American. § 87(2)(g)

Allegation I: PO Thomas Mitchell did not obtain medical treatment for § 87(2)(b) at the 101st stationhouse.

Allegation J: PO Thomas Mitchell spoke rudely to § 87(2)(b) at the 101st stationhouse.

§ 87(2)(b) alleged that PO Mitchell was the “only cool” officer, yet told him to mop up his “fucking throw-up.” § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: